

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

EURO-HERRAMIENTES, S.A.U.,
Plaintiff,

CV. 05-688-PK

OPINION AND
ORDER

v.

ACRADYNE CORPORATION, and
AUTOMOTIVE INDUSTRIAL
MARKETING CORPORATION
(AIMCO),

Defendants.

PAPAK, Magistrate Judge:

Defendants filed a Motion to Dismiss/Strike Plaintiff's First Amended Complaint on February 2, 2006 (#51). Oral argument was held on March 14, 2006. Defendants' Motion to Dismiss is hereby DENIED. Defendant's Motion to Strike is GRANTED and plaintiff is ordered to file a Second Amended Complaint within ten (10) days removing the following allegations from the First Amended Complaint:

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1. Paragraph 14, the 3rd and 4th sentences, including Exhibit B.
2. Paragraph 19, the 2nd sentence, including Exhibit C, and the phrase within parenthesis in the 1st sentence ("[and, indeed, the world through their product catalogs and other publicity-disseminated materials]).
3. Paragraph 20 in its entirety.
4. Paragraph 22, the 3rd, 5th, 6th and 7th sentences and the phrase "and the other distributors" in the 4th sentence.
5. Paragraph 24, the 4th sentence.
6. Paragraph 26, the 3rd, 4th, 5th and 6th sentences.
7. Paragraph 27, the 2nd sentence.
8. Paragraph 29, the 2nd, 3rd and 4th sentences, including Exhibit D.
9. Paragraph 36 in its entirety.

Plaintiff may amend Paragraph 19 to reference with specificity which product catalogs represented that defendants' tools were "CE Certified" and were relied upon by plaintiff.

Defendants' objections to the allegations of Paragraph 23 and the phrase "among other things" in Paragraph 19 as unrelated to the claim of fraud are noted but denied.

Dated this 14th day of March, 2006.

/s/ Paul Papak
Honorable Paul Papak
United States Magistrate Judge